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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/032,006	12/31/2001	Richard Rodriguez-Val	06975-179001/ Commerce 04	6136
26171	7590	05/15/2006	EXAMINER	
FISH & RICHARDSON P.C. P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022			AL HASHEMI, SANA A	
			ART UNIT	PAPER NUMBER
			2164	

DATE MAILED: 05/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/032,006	Applicant(s) RODRIGUEZ-VAL ET AL.	
	Examiner Sana Al-Hashemi	Art Unit 2164	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 March 2006.
 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 23-33,35 and 36 is/are pending in the application.
 4a) Of the above claim(s) 1-22,34 and 37-47 is/are withdrawn from consideration.
 5) ☐ Claim(s) _____ is/are allowed.
 6) ☒ Claim(s) 23-33,35 and 36 is/are rejected.
 7) ☐ Claim(s) _____ is/are objected to.
 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is issued in responds to applicant's Appeal Brief filed 3/20/06.
2. Claims 23-33, and 35-36, were amended. Claims 1-22, 34, and 37-47 are canceled. No claims were added.
3. Claims 23-33, and 35-36 are pending.
4. Applicant's arguments filed 6/1/05 with respect to claims 29-33, and 26 have been fully considered but they are not persuasive.
5. Applicant's arguments with respect to claims 23-28 have been considered but are moot in view of the new ground(s) of rejection.

Prosecution is hereby reopened.

Applicant may obtain an extension of time under 37 CFR 1.136(a) to file the appropriate appeal fee. The date on which the notice of appeal, the appeal fee, the petition under 37 CFR 1.136(a), and the petition fee are filed will be the date of the reply and also the date for determining the period of extension and the corresponding amount of the fee. In no case may an applicant respond later than the maximum SIX MONTH statutory period or obtain an extension pursuant to 37 CFR 1.136(a) for more than FIVE MONTHS beyond the date of reply set in an Office action.

In view of the appeal filed on April 14, 2005, PROSECUTION IS HEREBY REOPENED. Non-final action set forth below.

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To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 23-28, and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Biggar et al. (Biggar hereinafter) (US Patent No. 6,820,802 filed August 7, 2001) in view of Anderl et al. (Anderl hereinafter) (US Patent No. 4,816,654 issued March 28, 1989).

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Regarding Claims 23, and 35, Biggar in view of Partovi discloses a method for enabling billing configuration, the method comprising:

receiving first data regarding a communications characteristic (Col. 4, lines 35-45, Biggar);

retrieving second data indicative of a frequency of usage related to the communications characteristic (Col. 4, lines 46-52, Biggar);

Biggar discloses all the limitation as stated above. However, Biggar is silent with respect to the retrieving third data indicative of a frequency of usage threshold. The other hand Anderl at Col. 8, lines 34-44, and lines 53-65 discloses the data indicative of a frequency threshold as claimed. It would have been obvious to one of ordinary skill in the art at the time the invention was made to restrict the number of trails to access the system for a certain number of time. Skilled artisan would have been motivated to do so in order to reduce the possibility of fraud since the is a well known security feature to reduce the number of login attempts as suggested by Anderl at Col. 8, lines 26-33. And comparing the second data to and the third data (Col. 5, lines 28-32, Biggar); based on results of the comparison between the second data and the third data, enabling a billing configuration (Col. 5, lines 38-45, Biggar).

Claims 24-28, and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Biggar et al. (Biggar hereinafter) (US Patent No. 6,820,802 filed August 7, 2001) in view of Anderl et al. (Anderl hereinafter) (US Patent No. 4,816,654 issued March 28, 1989) and further in view of Partovi et al (Partovi hereinafter) (US Patent No. 6,807,574 filed October 22, 1999).

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Regarding Claim 24, Biggar discloses all the limitations subject matter. However, the combination of Biggar in view of Anderl is silent with respect to the first data includes data relating to a telephone number. On the other hand Partovi discloses the first data includes data relating to a telephone number (Col. 9, lines 22-28, Partovi). It would have been obvious to one of ordinary skill in the art at the time of the invention was made to include the telephone number related to the first data received from users, skilled artisan would have been motivated to do so in order to clarify each user since not more than one entity can have the same telephone number, which eliminates or reduce the fraud on users accounts, transactions and other billing activities, and by providing such secured environment to the end users the number of users will be increased.

Regarding Claim 25, Biggar in view of Anderl and further in view of Partovi discloses a method wherein the first data includes data indicative of a user name (Col. 4, lines 19-21, Biggar).

Regarding Claim 26, Biggar in view of Anderl and further in view of Partovi discloses a method wherein the second data indicates historical information regarding past attempts to enable the user configuration based on the first data (Col. 3, 4, lines 60-67, 1-2, respectively Biggar).

Regarding Claim 27, Biggar in view of Anderl and further in view of Partovi discloses a method wherein the historical information is defined over a specified period of time (Col. 10, lines 14-18, Biggar).

Regarding Claim 28, Biggar in view of Partovi discloses a method to the first data includes Automatic Number Identification (ANI) (Col. 6, lines 35-40, Partovi).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 29-33, and 36 are rejected under 35 U.S.C. 102(b) as being anticipated by Durinovic-Johri et al. (US Patent No. 5,699,514).

Regarding Claims 29, and 36, Durinovic-Johri discloses a method for enabling a user configuration, the method comprising:

receiving data regarding a communication characteristic (Col. 3, lines 64-67, Durinovic-Johri).

identifying a formatting characteristic of the data received (Col. 4, 20-25, Durinovic-Johri).

comparing the formatting characteristic against a format criteria (Col. 4, and 5, lines 64-67, and 1-5 respectively, Durinovic-Johri) and

enabling a user configuration based on results of the comparison between the formatting characteristic and the format criteria (Col. 5, lines 1-4, Durinovic-Johri).

Regarding Claim 30, Durinovic-Johri discloses a method wherein the communications characteristic includes a telephone number (Col. 4, lines 17-19, Durinovic-Johri).

Regarding Claim 31, Durinovic-Johri discloses a method wherein the formatting characteristic and the format criteria each include length (Col. 8, lines 37-40, Durinovic-Johri).

Regarding Claim 32, Durinovic-Johri discloses a method wherein the length includes a number of characters (Col. 7, lines 26-31, Durinovic-Johri).

33. The method of claim 29 wherein format criteria require only numeric data in the data (Col. 7, lines 51-57, Durinovic-Johri).

34. A system for establishing a user configuration comprising:

means for receiving first data indicative of information regarding a user characteristic (Fig. 2, 201, Durinovic-Johri);

means for detecting second data indicative of a communications characteristic for the user (Fig. 2, 203, Durinovic-Johri);

means for determining whether the first data and second data are related (Fig. 2, 208, and 209, Durinovic-Johri); and

means for establishing a user configuration based upon results of the determination of whether the first data and the second data are related (Fig. 2, 221, Col. 5, lines 1-6, Durinovic-Johri).

Other Prior Art Made of Record

1- Durinovic-Johri et al. (US Patent No.5.699.514) disclose access control system with lockout.

2- Buross et al. (US Patent No.6.775.782) discloses a method and system for suspending and resuming digital certificates in a certificate-based user authentication application system.

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3- Rosenberg et al. (US Patent No. 6,363,357) discloses method and apparatus for providing authorization to make multiple copies of copyright protected products purchased in an online commercial transaction.

4- Wu (US Patent No. 6,539,479) discloses a system and method for security logging onto a remotely located computer.

5. Biggar et al (US Patent No. 6,820,802) discloses an online card activation system and method.

6. Partovi et al. (US Patent No. 6,807,574) discloses a method and apparatus for content personalization over telephone interface.

7. Partovi et al. (US Patent No. 6,842,767) discloses a method and apparatus for content personalization over a telephone interface with adaptive personalization.

8. Agraharam et al. (US Patent No. 5,987,508) disclose a method of providing seamless cross-service connectivity in telecommunication network.

9. Anderl et al. (US Patent 4,816,654) discloses an improved security system for a portable data carrier.

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Points of Contact

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sana Al-Hashemi whose telephone number is 571-272-4013. The examiner can normally be reached on 8Am-4:30Pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Rones, can be reached on (571) 272-4085. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sana Al-Hashemi
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May 8, 2006


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